

MINUTES OF THE OPEN SESSION OF THE RHODE ISLAND ETHICS COMMISSION

May 1, 2007

The Rhode Island Ethics Commission held its 8th meeting of 2007 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, May 1, 2007, pursuant to the notice published at the Commission Headquarters and at the State House Library.

The following Commissioners were present:

**James Lynch, Sr., Chair James V. Murray
Barbara R. Binder, Vice Chair Ross Cheit
George E. Weavill, Jr., Secretary James C. Segovis
Richard E. Kirby* Frederick K. Butler**

Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney*; Staff Attorneys Jason M. Gramitt and Dianne L. Leyden; and Commission Investigators Steven T. Cross, Peter J. Mancini and Michael Douglas.

At approximately 9:10 a.m., the Chair opened the meeting. The first order of business was to approve the minutes of the Open Session

held on April 17, 2007. Upon motion made and duly seconded, it was unanimously

VOTED: To approve the minutes of the Open Session held on April 17, 2007.

ABSTENTIONS: James C. Segovis, Frederick K. Butler and James V. Murray.

****Commissioner Kirby and Senior Staff Attorney D'Arezzo arrived at approximately 9:12 a.m.**

The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of Paul Golembeske, a member of the Little Compton Town Council. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was present. In response to Commissioner Cheit, the petitioner advised that the lot had been part of a family farmstead and his father built a second house on the back portion in 1961, prior to adoption of the zoning laws. He stated that a variance is needed to subdivide the property, which is reflected on the deed as one lot. He represented that he will not be selling the property once it is subdivided.

Commissioner Weavill inquired as to the petitioner's participation in appointing or reappointing Planning Board members. The petitioner indicated that he has reappointed about four. In response to Commissioner Weavill, Staff Attorney Leyden stated that the reference to the revolving door prohibition in the draft opinion should be removed. Commissioner Weavill noted that the petitioner would also need to appear before the Zoning Board and suggested that the opinion should address that issue as well. The petitioner advised that he has appointed three members of the Zoning Board. Staff Attorney Leyden informed that she would add the requested language regarding the Zoning Board to the opinion. In response to Commissioner Cheit, she stated that the petitioner's appearance before the Zoning Board would not change the opinion.

Commissioner Kirby expressed his view that it would be important to distinguish that the petitioner's request for relief does not involve any future development but is only meant to address the fiction of lot ownership. Staff Attorney Leyden stated that language to that effect would be added. Commissioner Cheit observed that the petitioner's family has owned the property for twenty years. Upon motion made by Commissioner Segovis and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, as amended and attached hereto, to Paul Golembeske, a member of the Little Compton Town Council.

At approximately 9:25 a.m. upon motion made by Commissioner Weavill and duly seconded by Commissioner Cheit to go into Executive Session pursuant to R.I. Gen. Laws §§ 42-46-5(a)(1) and 5(a)(4), there was discussion. Commissioner Cheit objected to going into Executive Session pursuant to section 5(a)(1), raising issues relating to notice and findings on the record, and suggested that Executive Session be convened pursuant to section 5(a)(4). Commissioner Kirby indicated that it would be premature to have any formal discussions. After discussion, upon motion made by Commissioner Weavill and duly seconded by Commissioner Cheit, to amend the original motion, it was unanimously

VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(4), to wit:

a.) Motion to approve minutes of Executive Session held on April 17, 2007.

b.) Discussion re: Personnel.

c.) Motion to return to Open Session.

The Commission reconvened in Open Session at approximately 11:00 a.m. The Chair reported that the Commission took the following actions in Executive Session: 1) approved minutes of the Executive

Session held on April 17, 2007; 2) reviewed its complaint procedures and personnel procedures and, upon being satisfied with current procedures, no action was taken; and 3) voted to amend the agenda to add a Motion to Seal the minutes of the Executive Session held on May 1, 2007.

The next order of business was to seal the minutes of the Executive Session held on May 1, 2007. Upon motion made by Commissioner Segovis and duly seconded by Commissioner Weavill, it was unanimously

VOTED: To seal the minutes of the Executive Session held on May 1, 2007.

The next order of business was a discussion of Access to Public Records Act (APRA) Procedures. Senior Staff Attorney D'Arezzo provided an overview of the requirements of the APRA and discussed Commission procedures for responding to records requests, including the denial of access and the appeals process. She informed that the Attorney General's Office reviewed the Commission's procedures and advised that they are in full compliance with the statutory requirements. In response to Commissioner Cheit, she clarified that the APRA does not provide a mechanism for the Chair or the full Commission to review the Staff's denial of records. She informed that an aggrieved party may petition the Executive Director for a review of the Staff's determination that the records are exempt

from disclosure. Thereafter, remedies include filing a complaint with the Attorney General or initiating proceedings in Providence Superior Court. Commissioner Cheit requested that the Director's Report advise as to the number of APRA requests received and whether access to records was denied.

The next order of business was the Director's Report. Executive Director Willever informed that the Commission Staff is in the midst of the annual financial disclosure season. He stated that there are fourteen advisory opinions and five Complaints pending. He noted that Legal Staff spent a substantial amount of time preparing draft opinions which were later withdrawn. Executive Director Willever noted that Staff Attorney Gramitt and Investigator Mancini are featured in a Johnston news article regarding a recent ethics presentation to City officials.

Senior Staff Attorney D'Arezzo advised that the April 17, 2007 Open Session minutes should reflect the presence of Staff Attorney Leyden. Upon motion made by Commissioner Binder and duly seconded by Commissioner Kirby, it was unanimously

VOTED: To amend the minutes of the Open Session held on April 17, 2007 to reflect the presence of Staff Attorney Leyden.

ABSTENTIONS: James C. Segovis, Frederick K. Butler and James V. Murray.

The next order of business was New Business. There being none, at approximately 11:25 a.m, upon motion made by Commissioner Kirby and duly seconded by Commissioner Murray, it was unanimously

VOTED: To adjourn the meeting.

Respectfully submitted,

George E. Weavill, Jr.
Secretary